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ORDER SHEET
WPO No.3173 of 2022
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

SARASWATI SHAW & ANR.

-VS-

KOLKATA MUNICIPAL CORPORATON & ORS.

BEFORE:
The Hon'ble JUSTICE AMRITA SINHA
Date: 6th December, 2022.

Appearance:
Mr. Arindam Banerjee, Adv.
Mr. Sourojit Dasgupta, Adv.
Mr. A. Rakshit, Adv.
Ms. Diksha Ghosh, Adv.
..for the Petitioners.

Mr. Gopal Chandra Das, Adv.
Mr. Debangshu Mondal, Adv.
..for KMC.

The Court:-The petitioners are aggrieved by the notice dated 25th November, 2022 issued by the Assistant Engineer (Civil)/Building Department, Borough-IX of the Kolkata Municipal Corporation under Sections 544 and 546 of the Kolkata Municipal Corporation Act, 1980.

By the said notice the petitioners have been intimated that the men and agents of the Kolkata Municipal Corporation will enter the premises No.43/1B, Hemchandra Street, Ward No.76, Borough-IX for demolishing the unauthorized structure on 7th December, 2022 as per the order dated 10th November, 2022 issued by the Executive Engineer (Civil)/Building Department, Borough-IX under Section 400(1) of the Kolkata Municipal Corporation Act, 1980.

The order of demolition is an appealable one and the time period prescribed for preferring the appeal is thirty days from the date of passing of the order.

The date of the order of demolition is 10th November, 2022 and the petitioners have time till 9th December, 2022 for preferring the appeal. The impugned notice has been issued on 25th November, 2022 fixing 7th December, 2022 as the date of demolition.

The respondent authority ought to have given time to the person aggrieved to prefer appeal against the order of demolition within the period prescribed in the statute.

Learned advocate appearing on behalf of the petitioners submits in Court that his clients intend to prefer an appeal against the order of demolition and seeks time to approach the appellate forum.

It has been claimed that the order of demolition dated 10th November, 2022 was served upon the petitioners on 15th November, 2022.

For the ends of justice, the Court directs the Assistant Engineer (Civil)/ Building Department, Borough-IX of the Kolkata Municipal Corporation not to take any steps further to the impugned notice till 6th January, 2023.

It will be open for the petitioners to approach the appellate forum. The learned Municipal Building Tribunal is directed to register

the appeal preferred by the petitioners without insisting upon production of the certified copy of the impugned order of demolition.

The learned Municipal Building Tribunal shall take steps to decide the application for stay to be filed by the petitioners at the earliest.

In the event the petitioners fail to obtain any order staying/modifying the order of demolition dated 10th November, 2022 by 6th January, 2023, it will be open for the Kolkata Municipal Corporation to proceed in accordance with law to deal with the unauthorized constructions.

The writ petition stands disposed of.

Affidavit of service filed in Court today is taken on record.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all legal formalities.

(AMRITA SINHA, J.)